

**REMARKS**

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph. This rejection has been rendered moot in view of the cancellation of claim 1.

Claims 1-4 stand rejected under 35 U.S.C. § 102 as being anticipated by Kuchta et al. '831 ("Kuchta"). Claims 1 and 2 are independent. In order to expedite issuance of the present application, claim 1 has been canceled without prejudice/disclaimer to the subject matter embodied thereby. This rejection is respectfully traversed for the following reasons.

Claim 2 recites in pertinent part, "wherein image data corresponding to a series of images which are captured consecutively by the imager *is transferred* from the image memory to the storage medium while the series of images *is presented by the display*." One exemplary embodiment of the present invention as recited in claim 2 is illustrated in Figure 3 of Applicants' drawings; whereby, in interval T32 for example, images CFU1, CTH1 in the image memory can be transferred to the storage medium while, for example, TH1 is presented on the display (*see* Figure 1 of Applicants' drawings illustrating dual paths A and B from the image memory). According to one aspect of the present invention, a user can have the capability to review captured images without having to wait the extended period of time needed in conventional devices for images to be completely processed.

Kuchta, on the other hand, is completely silent as to transferring images while being presented for display. In contrast, Kuchta merely discloses outputting a thumbnail image into storage (col. 4, lines 47-50), *after* which a request from the processor 20 is needed for the image to be retrieved and displayed (col. 4, lines 65-68). Accordingly, Kuchta does not disclose or suggest image processing in which transfer of image data to the storage medium and the display

of image data can be conducted at the same time in parallel, so that the images in Kuchta can not be viewed on the display while they are being sent to storage.

In addition, Kuchta further does not appear to disclose or suggest, either expressly or inherently, image data corresponding to a *series of images captured consecutively*. In this regard, Kuchta appears completely silent as to the type of process used to capture the images (i.e., single shooting or continuous shooting). Indeed, absent such disclosure, it is probable that Kuchta is directed to the conventional single shooting camera whereby one image is captured per push of the button, as opposed to the continuous shooting camera (*see, e.g.*, page 1, lines 7+ of Applicants' specification) of the present invention in which image data corresponds to a series of images captured consecutively. It is noted that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999).

Indeed, as described on page 3, lines 1-13 of Applicants' specification, one of the objects of the present invention is directed to improving the drawbacks of the continuous shooting camera (delayed viewing) whereby a series of images are captured consecutively per push of the button; whereas the single shooting camera (Kuchta) is not subject to such drawbacks.

New independent claim 8 is submitted to be patentable over Kuchta for reasons similar to those discussed above regarding claim 2.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Kuchta does not anticipate claims 2 and 8, nor any claim dependent thereon.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 2 and 8 are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination. Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 102 be withdrawn.

**CONCLUSION**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,  
McDERMOTT WILL & EMERY LLP

  
Ramyar M. Farid  
Registration No. 46,692

**Please recognize our Customer No. 20277 as  
our correspondence address.**

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 RMF:MWE  
Facsimile: 202.756.8087  
**Date: August 5, 2005**